

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CAPTAIN NANCY S. DIETZ,

Plaintiff,

V.

MAYOR JAMES M. BAKER,
individually and in his official capacity
as the Mayor of the City of Wilmington,
and MAYOR AND COUNCIL OF
WILMINGTON,

Defendants.

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C.A.No.06-256-SLR

MOTION AND ORDER FOR ADMISSION PRO HAC VICE

Pursuant to Local Rule 83.5 and the attached certification, counsel moves the admission *pro hac vice* of Cheryl A. Hertzog, Esq. to represent plaintiff in this case.

Ms. Hertzog is employed full time as an associate attorney for The Neuberger Firm, P.A., counsel for plaintiff.

Ms. Hertzog is a member in good standing of the Bars of Pennsylvania and New Jersey.

Ms. Hertzog intended to sit for the Delaware Bar in July of 2007. However, due to an unexpected pregnancy she was unable to do so. As a result, she will sit for the Delaware Bar in July of 2008.

Under Local Rule 83.5 (2) and (3), an attorney who is not a member of the Bar of Delaware may not be admitted *pro hac vice* if s/he is regularly employed in Delaware, or is regularly engaged in business, professional, or other similar activities in Delaware. This Rule

thus otherwise operates as a bar to Ms. Hertzog's participation as co-counsel in this case.

However, L.R. 1.1(d) provides that any of the Local Rules can be modified by any member of the Court. It states that "[t]he application of the rules in any case or proceeding may be modified by the Court in the interests of justice."

In mid-February of 2006, Ms. Hertzog also contacted the Clerk's Office and spoke with the clerk in charge of administration who informed her that Local Rule 83.5 was a judge-made rule and that the presiding Judge may make an exception to the Rule.

Plaintiff respectfully suggests that the interests of justice require such an exception in this case.

Ms. Hertzog's participation as co-counsel is needed in this case due to the trial schedules of the principals of The Neuberger Firm - Thomas S. Neuberger, Esq. and Stephen J. Neuberger, Esq. Health related issues also require Thomas S. Neuberger to seek her assistance in this case. Plaintiff also wishes her to serve as a co-counsel in this case. However, due to her unique and unexpected circumstances Local Rule 83.5 prevents her from serving in this capacity in this litigation.

On September 18, 2007, following submission of a similar motion, The Honorable Joseph J. Farnan granted an exception to Local Rule 83.5 by signing an order allowing the admission of Ms. Hertzog *pro hac vice* in the case of Balas v. Taylor, et al., C.A.No. 06-592-JJF. (See D.I.24).

Plaintiff thus Moves that the Court in the interests of justice allow Ms. Hertzog to be admitted in this case *pro hac vice*. The needs of the case will be served, the desires of plaintiff and the scheduling issue of The Neuberger Firm will be accommodated by such an Order.

Respectfully Submitted,

THE NEUBERGER FIRM, P.A.

/s/ Stephen J. Neuberger

THOMAS S. NEUBERGER, ESQ. (#243)

STEPHEN J. NEUBERGER, ESQ. (#4440)

Two East Seventh Street, Suite 302

Wilmington, Delaware 19801

(302) 655-0582

TSN@NeubergerLaw.com

SJN@NeubergerLaw.com

Dated: November 7, 2007

Attorney for Plaintiff

LOCAL RULE 7.1.1 STATEMENT

Counsel certifies that his office contacted defense counsel on October 18, 2007 to resolve this matter short of petitioning the Court for relief. Almost two weeks have passed and defense counsel still have yet to respond.

/s/ Stephen J. Neuberger

STEPHEN J. NEUBERGER, ESQ.

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[illegible]

C.A.No.06-256-SLR

ORDER GRANTING MOTION

IT IS HEREBY ORDERED that the motion for admission *pro hac vice* of Cheryl A. Hertzog, Esq. is granted.

Date:

United States District Judge

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CERTIFICATION BY COUNSEL TO BE ADMITTED PRO HAC VICE

Pursuant to Local Rule 83.5, I certify that I am eligible for admission to this Court, am admitted, practicing and in good standing as a member of the Bar of Pennsylvania and the Bar of New Jersey and pursuant to Local Rule 83.6 submit to the disciplinary jurisdiction of this Court for any alleged misconduct which occurs in the preparation or course of this action. I also certify I am generally familiar with this Court's Local Rules. In accordance with Standing Order for District Court Fund effective 1/1/05, I further certify that the annual fee of \$25.00 has been paid to the Clerk of Court, or, if not paid previously, the fee payment will be submitted to the Clerk's Office upon the filing of this motion.

Cheryl Hertzog
CHERYL A. HERTZOG, ESQ.
(PA Bar #200583)
 2 East Seventh Street, Suite 302
 Wilmington, DE 19801
cherylh@neubergerlaw.com

Dated: November 7, 2007

CERTIFICATE OF SERVICE

I, Thomas S. Neuberger, being a member of the bar of this Court, do hereby certify that on November 7, 2007, I electronically filed this **Motion** with the Clerk of the Court using CM/ECF and served the following individuals by the means indicated:

Teresa A. Cheek, Esquire
Young, Conaway, Stargatt, & Taylor, LLP
The Brandywine Building, 17th Floor
1000 West Street, P.O. Box 391
Wilmington, Delaware 19899-0391
tcheek@ycst.com

Rebecca Butcher, Esq.
Dan Rath, Esq.
Landis, Rath & Cobb, LLP
919 Market Street, Suite 600
Wilmington, DE 19801
butcher@lrclaw.com

/s/ Thomas S. Neuberger
THOMAS S. NEUBERGER, ESQ.